

REMARKS

Claims 1, 2, 8, and 66 are pending in this application. Claims 3-4, 6-7, 11, 13-15, 17-25, 32-36, 38-40, 42-44, 46-48, 50-51, 53-55, 57-59, 61-62, 64-65, 67-68, 71, 73-75, and 77-88 are withdrawn from consideration. Claims 5, 10, 12, 16, 26-72, and 76 have been cancelled.

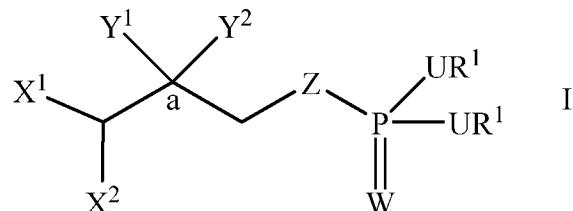
Claim 1 has been amended to recite “Z comprises oxygen, sulfur, NR¹, CH₂, CHF, CF₂, or CHOR²...” Claim 1 has also been amended to recite a pharmaceutically acceptable salt thereof in order to recite proper antecedent basis.

In the specification, Table 1 has been replaced with a new table to include the complete molecular formula of each compound. As-filed Table 2 recites the complete structure of each compound; therefore, no amendment was necessary.

Applicants respectfully request consideration of additional species recited in claim 1. Claims 73, 74, and 77-86 have been amended to recite all of the features of claim 1. Additionally, applicants respectfully request that the withdrawn claims 73-75 and 76-88 be rejoined and allowed upon the allowance of claim 1.

Objections

The Office Action has objected to claims 1, 2, 8, and 66 for containing non-elected subject matter. For clarity, the structure of formula I with V absent, which is a feature of claim 1, is provided below.



As recited in claim 1, U comprises oxygen, R¹ comprises a cationic counterion (i.e. ionic sodium), W comprises oxygen, Z comprises CHF, Y¹ and Y² comprises independently a hydrogen and a hydroxyl group, X¹ comprises O(C)OR³, R³ comprises a branched or straight

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chain alkyl group, and X^2 comprises hydrogen. In view of the structure of formula I and the variables as defined in claim 1, claims 1, 2, 8, and 66 contain the elected species.

The Office Action has also objected to claim 1 with respect to the phrase “the pharmaceutically acceptable salt thereof.” Per the Examiner’s suggestion, claim 1 has been amended to recite a pharmaceutically acceptable salt thereof.

Rejections under 35 U.S.C. § 102

35 U.S.C. § 102(a) Xu *et al.*

The Office Action asserts that claims 1, 2, and 66 are anticipated by Xu *et al.* (“the Xu article”) under 35 U.S.C. 102(a). More specifically the Office Action asserts that the Xu article discloses the compound of claim 1, where U = oxygen, R_1 = Na, Z = CF_2 , Y_1 = H, Y_2 = OH, V = absent, X_1 = $-OC(O)-R_3$ where R_3 is alkyl, and X_2 = H. The two authors of the Xu article (Yong Xu and Glenn D. Prestwich) are also co-inventors of the present invention. The third co-inventor of the present invention is Lian Qian. Per M.P.E.P. 715.01(a) and 716.10, enclosed are Declarations under 37 C.F.R. 1.132 signed by Yong Xu and Glenn Prestwich. In the Declaration, Yong Xu and Glenn Prestwich declare that they invented the subject matter in the Xu article, which is also subject matter of the present invention. In the Declaration, Yong Xu and Glenn Prestwich also declare that the inventorship of the present invention is correct. In view of the Declarations, the Xu article is not prior art to the present invention. Therefore, applicants respectfully request the rejection be withdrawn.

35 U.S.C. § 102(b) Jalink *et al.*

The Office Action has rejected claims 1, 2, and 66 under 35 U.S.C. § 102(b). The Office Action specifically asserts that Jalink *et al.* anticipates the compound of claim 1 wherein U and W = oxygen, R_1 = H, Z = CH_2 , Y_1 = H, Y_2 = OH, V = absent, X_1 = $-OC(O)-R_3$ where R_3 is alkyl, and X_2 = H. Claim 1 has been amended such that CH_2 is not one of the groups for Z. In view of the amendment, claim 1 cannot be anticipated by Jalink *et al.*

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Rejections under 35 U.S.C. § 103

The Office Action asserts that claims 1, 2, 8, and 66 would have been obvious under 35 U.S.C. 103(a) over Xu *et al.* in view of Patani *et al.* further in view of Halazy *et al.* As discussed above, Xu *et al.* does not qualify as a prior art reference. Since the primary reference relied upon for obviousness rejection does not qualify as a prior art, the rejection is rendered moot. Therefore, applicants respectfully request the rejection be withdrawn.

CONCLUSION

The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of this application to issue.

The fee of \$240.00 has been filed electronically. No further fee is believed to be due; however, the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 50-1513.

Respectfully submitted,
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